

REMARKS

The present request is submitted in response to the final Office Action dated September 20, 2005, which set a three-month period for response, making this amendment due by December 20, 2005 and with the initial two-month period expiring on November 20, 2005.

Claims 1-11 are pending in this application.

In the final Office Action, claims 1-5, 7, and 9-11 were rejected under 35 U.S.C. 103(a) as being unpatentable over WO 00/39912 to Habele et al. Claim 8 was rejected under 35 U.S.C. 103(a) as being unpatentable over Habele et al in view of U.S. Patent No. 6,326,710 to Guenther et al.

In the present request, in light of the Examiner's comments on page 5 of the final rejection, claim 1 has been amended to more clearly define the "trailing edge". Specifically, the trailing end of the rockerlike brake element 20 is the back part of element 20 with regard to the direction of rotation of the rotor 10. The opposite part of the element 20 is the leading end. From the perspective of the rotor 10, the rotor first enters the leading end and then leaves the trailing end.

As defined in claim 1, the brake shoe is mounted on this trailing end. In contrast, Habele clearly shows and discloses that the brake shoe is mounted on the brake element on the leading end.

Because Habele does not disclose this feature or suggest that his device could be modified and workable by mounting the brake show on the opposite end of the brake element, the rejection under Section 103 must be withdrawn. The

practitioner could not be lead to the present invention by Habele, which specifically teaches away from the present invention by mounting the brake shoe on the opposite end of the brake element and provides no alternative or modification of this structure to the practitioner.

As argued previously, it simply would not be obvious to the practitioner to modify Habele to move the brake shoe to the opposite end of the brake element. The present invention is based on the recognition that the magnetic flux density on the yoke of the stator is greater on the leading end on than on the trailing end, so that the disposition of the brake shoe on the leading end, as described in the Habele reference, leads to a greater reduction in power than locating the brake shoe on the trailing end as defined in claim 1 of the present application. This effect overcompensates the self-reinforcement of the braking force as described in the Habele reference on page 4, lines 17-20.


To imbue one of ordinary skill in the art with knowledge of the present invention, when the prior art of record fails to convey or suggest that knowledge, amounts to impermissible hindsight. *W.L. Gore & Assocs., Inc. v. Garlock, Inc.*, 220 USPQ 303, 312-13 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

For the reasons set forth above, the Applicant respectfully submits that claims 1-11 are patentable over the cited art. The Applicant further requests withdrawal of the final rejections under 35 U.S.C. 103 and reconsideration of the claims as herein amended.

Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss

appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,



Michael J. Striker
Attorney for Applicant
Reg. No.: 27233
103 East Neck Road
Huntington, New York 11743
631-549-4700